



Appeal Decision

Site visit made on 10 March 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th April 2020

Appeal Ref: APP/K0425/W/18/3217205

Woodland, Fieldhead Gardens, Bourne End SL8 5RN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by MMDM Developments Limited against the decision of Buckinghamshire Council - Wycombe Area.
 - The application Ref 18/06529/OUT, dated 8 June 2018, was refused by notice dated 15 August 2018.
 - The development proposed is the erection of 3no. detached dormer bungalows, and ancillary works.
 - This decision supersedes that issued on 29 May 2019. That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by MMDM Developments Limited against Wycombe District Council. That application was the subject of a separate Decision dated 29 May 2019.

Procedural Matters

3. On 1 April 2020 the name of the decision-making authority changed from Wycombe District Council to Buckinghamshire Council. This is reflected in the banner heading above.
4. Since the submission of this appeal, the Wycombe District Local Plan (August 2019) (the Local Plan) has been adopted by the Council and can now be afforded full weight in decision making. Both main parties to this appeal have had the opportunity to make comments upon the implications of this and I shall consider the appeal accordingly.
5. The appeal proposal is for outline planning permission with all detailed matters reserved for future approval. Whilst not formally part of the scheme, I have treated any details submitted with the appeal application relating to matters of access, appearance, landscaping, layout and scale as a guide to how the site might be developed.
6. The appellant has submitted revised documentation since the previous decision on this appeal was quashed, which includes an Arboricultural Method Statement (December 2019) (the AMS) that contains an updated tree survey

schedule. The AMS and other newly submitted plans¹ supersede various previously submitted plans and documents² and thus have the effect of updating and supplementing information that had already been provided. The Council and interested parties to this appeal have had the opportunity to comment upon the new documents and I do not consider that any party with an interest in this appeal is prejudiced by me taking them into account.

7. The appellant has also submitted a Landscape Management and Maintenance Plan (January 2020) (the LMMP). It is again the case that the Council and interested parties have had the opportunity to review this document and the Council has not raised any objection to its inclusion. The LMMP is a supporting document that relates specifically to future management and maintenance arrangements at the site. It does not alter the type or extent of development being applied for and I am content that no party is prejudiced by me giving consideration to the LMMP in my determination of this appeal.

Main Issues

8. The main issues are:

- The effect upon the character and appearance of the area, and
- The likely long-term effect upon protected trees intended to be retained.

9. The Council's second reason for refusing planning permission relates to the scheme's alleged failure to take note of the site's ecological features. However, contrary to the wording of this refusal reason, it has since been clarified by the Council that the site is not recorded as BAP Priority Habitat and that Policy DM13 of the Delivery and Site Allocations Plan (July 2013) (the DSAP) does not apply. I am thus satisfied that ecological matters do not need to be dealt with under a main issue in this appeal. I shall determine the appeal accordingly.

Reasons

Character and appearance

10. The appeal site is comprised of a well-vegetated area of undeveloped land. The on-site planting is predominated by trees that are the subject of a Woodland Tree Preservation Order (the TPO). These trees provide substantial site coverage. The local area, owing to the regular presence of significant planting, has a green and sylvan character and appearance.
11. The visibility of the on-site planting beyond the immediate locality of the site is fairly limited. This is due mainly to the typically flat topography of the area and the presence of various existing nearby developments. Nevertheless, particularly when viewed and experienced from Fieldhead Gardens, the site's trees make a noticeable and important contribution to the local area's sylvan character and appearance.
12. The site is designated as green space under Policy DM12 of the DASP. This policy states that development that would result in the loss, fragmentation or reduction in size of green spaces will be refused, except in exceptional

¹ Arboricultural Impact Assessment (Arbtech AIA 01); Tree Constraints Plan (Arbtech TCP 01); Tree Protection Plan (Arbtech TPP 01)

² Tree Survey and Location Plan (347-001R1); Tree Survey Assessment (347/ATS/001); Tree Protection Plan (347-002V4); Arboricultural Method Statement (347/AMS/002)

circumstances. Indeed, the policy's supporting text confirms that designated green spaces are a key element of the District's green infrastructure and that their retention is important.

13. Whilst the proposal is in outline form such that full details of the intended layout of the development have yet to come forward, the scheme would be unlikely to vary considerably when compared to the illustrative layout that has been provided. This is due mainly to the positions of the existing largest/highest quality trees earmarked for retention. The proposed dwellings, which are described as dormer bungalows, would be scattered across the site and would not in themselves appear as unduly dominant additions to the area.
14. I acknowledge that most of the largest and highest value trees would not be removed, and that a significant belt of planting is intended to be retained to the northern side of the site. Nevertheless, it remains apparent that significant tree removals are planned. Many of the intended removals, including various entire groups of trees as identified in the AMS, would be concentrated towards the southern side of the site in proximity to Fieldhead Gardens.
15. The latest tree survey schedule identifies each tree group as understorey formed of mixed species of low categorisation. Nevertheless, whilst relatively low in scale when compared to the most dominant on-site specimens, I observed each of the identified tree groups to contain trees of apparent reasonable health and of not insignificant stature. Indeed, each group would much more likely than not provide a valuable long-term contribution to the local landscape. This is particularly when noting that many of these groups are not comprised of a minor or inconsequential assemblage of trees.
16. The various intended tree removals, when considered cumulatively, would have a stark visual effect when experienced from Fieldhead Gardens. The removals would lead to the erosion of the site's wooded character and to the fragmentation of designated green space. To my mind, the previous Inspector underplayed the cumulative value offered by the trees intended to be removed and I disagree with his findings that the scheme would not erode the site's woodland character and would not lead to the fragmentation of green space.
17. I acknowledge that the site currently has an unmanaged appearance and I see some merit in the notion that some selected tree removals would be in the interests of good woodland management. However, notwithstanding its somewhat wild appearance, I have found that the site currently makes an important and valuable contribution to the character and appearance of the local area. Whilst the proposal might represent good woodland management, any benefits of this would be outweighed by the associated consequence of substantial areas of existing planting being removed to the detriment of the area's character and appearance.
18. The trees that are intended to be retained would be supplemented by additional planting, indicative details of which are set out upon submitted plan 347-003V3. However, new planting would take time to properly establish and would be restricted in terms of its ground coverage due to the development that is proposed. I also note that each newly proposed dwelling would be anticipated to be served by its own driveway and private garden area, which would have the effect of considerably reducing the realistic potential extent of new planting.

19. For the above reasons, the proposal would cause harm to the character and appearance of the area. The proposal conflicts with Policies DM11 and DM12 of the DASP and with Policies CP1, CP9, CP10, DM34 and DM35 of the Local Plan in so far as these policies promote the conservation and enhancement of the natural environment and green infrastructure of the District, and state that development that would result in the fragmentation of designated green space will, except in exceptional circumstances, be refused. For the avoidance of doubt, I am unaware of the exceptional circumstances that would apply here.

Protected trees to be retained

20. A not insignificant number of large trees are intended to be retained on the site in unavoidable proximity to the new dwellings. It is not possible at this outline stage to consider the precise relationships that would be in place between the dwellings and the trees to be retained. Nevertheless, there would inevitably be some anticipated effects experienced by future occupiers of the development due to the potential threat of damage to property and loss of light/shading, and from other anticipated nuisances such as leaf littering. This is even should architectural features to maximise light ingress and design features to manage leaf litter ultimately come forward.
21. The existence of the TPO is a relevant factor when gauging the level of future risk that retained trees would be subjected to. Indeed, separate future applications would need to be made and approved by the Council before works to protected trees could lawfully be carried out. It is also likely that future house owners/occupiers would be fully aware of the presence of protected trees before taking occupation. It is also possible, dependent upon personal preferences, that shading could be seen as a positive consequence. Even so, I do not consider that these factors would fully account for the anticipated future pressures that would be placed upon retained trees at the site. This is not least due to the significant scale and coverage of the tree canopies envisaged to be retained and their associated potential to influence day-to-day living arrangements at the site.
22. Only illustrative details of intended landscaping and associated management/maintenance arrangements are before me for my consideration at this outline stage. The LMMP sets out various management objectives and programmes, including schedules of annual works to be carried out to various planted elements on site (including existing trees). However, there would be limitations in terms of how far a management/maintenance regime could realistically go in protecting the long-term future of trees. This is particularly when noting the density of the tree coverage that would remain at the site.
23. For the reasons set out above, the proposal would be likely to have a negative long-term effect upon the integrity of protected trees intended to be retained. This would thus lead to a further erosion of the site's woodland character, which would exacerbate the significant harm that I have already identified would be caused by the proposal to the character and appearance of the area.
24. The proposal conflicts with Policy DM34 of the Local Plan in so far as this policy requires all development, as a minimum, to protect trees to be retained through site layout and during construction. Whilst I acknowledge that layout is a detailed matter that would be reserved for future approval, the positions and site coverage of the largest and most prominent tree specimens earmarked for retention necessitates that any detailed layout would be likely to lead to the

long-term integrity of protected trees being compromised. Hence the identified conflict with Policy DM34.

Other Matters

25. I have noted concerns raised by various parties as regards the ecological impact of the proposed development and, more specifically, the potential effect upon protected species including bats. A Preliminary Ecological Appraisal and Preliminary Roost Assessment Survey (updated March 2019) (the PEA) makes up part of the evidence before me. This is a detailed report that references climbing inspections carried out to assist in assessing the prevalence of potential roosting features for bats. I am content that an appropriate methodology was followed and that the survey results are thus robust and adequately demonstrate that roosting opportunities would not be unduly compromised by the proposed development.
26. A wide range of recommended mitigation and enhancement measures are pinpointed within the PEA, which include lighting controls and the provision of native planting, log pyramids and bird and bat boxes. These would be provided in the interests of increasing biodiversity at the site. I am satisfied that these various specified measures would provide appropriate assurances that the proposal would maximise biodiversity in accordance with the requirements of Policy DM14 of the DASP.
27. The Lead Local Flood Authority (the LLFA) has confirmed that the site lies in an area at very low risk of surface water flooding. Nevertheless, the LLFA suggest that the groundwater level in the location is high and that infiltration may not be a viable method of surface water disposal. However, as the scheme before me is at outline stage, of relatively limited scale and in an area at very low risk, I am content that a comprehensive drainage strategy could suitably be secured via condition in the event planning permission were granted.
28. Whilst not benefits of the scheme, I acknowledge that the proposal would not be anticipated to lead to harm being caused to neighbouring living conditions or in highway safety terms. Reference to potential plans to provide additional station car parking upon the site has been made. However, from the evidence before me and in the absence of planning permission, there is currently no certainty that any such provision could be implemented in the future. Whilst reference to the appeal site is made in the Council's Interim Housing Land Availability Assessment (February 2014), it must be noted that the site is not allocated for housing development.

Housing Land Supply and the Planning Balance

29. The Council's latest published 5 Year Housing Land Supply Position Statement (October 2019) (the Position Statement) uses the Local Plan's housing target as the basis for assessing the District's housing requirement and for calculating housing land supply. Whilst the Position Statement sets out a 7.1-year supply figure, the appellant considers that the Council cannot currently demonstrate a robust 5-year supply of deliverable housing sites.
30. Notwithstanding the Local Plan's recent adoption, the appellant's Report on Housing Land Supply (Intelligent Land, December 2019) sets out that an alternative housing requirement using local housing need methodology should be considered. It has also been suggested that various sites should be

removed from the Council's housing trajectory (as set out in the Position Statement). This is due to reasons including no planning permission being in place and a lack of evidence to clearly demonstrate deliverability.

31. The worst-case supply position, as calculated by the appellant, is that only a 3.71-year supply of housing can currently be demonstrated. On that basis the presumption in favour of sustainable development would apply. For decision making this would mean granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework's policies taken as a whole.
32. I have identified harm to the character and appearance of the area and to protected trees in conflict with Policies DM11 and DM12 of the DASP and with Policies CP1, CP9, CP10, DM34 and DM35 of the Local Plan. These are policies that are consistent with the Framework in so far as it promotes the achievement of sustainable development and requires that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the benefits of trees and woodland.
33. Turning to the scheme's benefits, it would deliver three additional residential units in a District where the appellant alleges there is currently a significant shortfall in the supply of housing land. I have noted the appellant's suggestion that substantial weight should be afforded to this benefit. However, the delivery of three units would make a limited contribution to the District's housing supply. The benefit of the provision of three dwellings, when considered in the context of an alleged 3.71-year supply figure, whilst important, attracts moderate weight in the planning balance.
34. The proposal would also generate jobs and investment during the construction phase and expenditure in the local economy and support for local community facilities in the area once occupied. These are benefits that attract limited weight given the modest scale of development under consideration.
35. For the reasons I have already given under the main issues in this appeal, any potential environmental improvement encouraged through active management and maintenance of the site would be a benefit that attracts moderate weight. Any increase in biodiversity would be small, particularly given the extent of vegetation intended to be removed, and I apportion limited weight to any potential benefit of the scheme in this context.
36. I have also noted that it is intended for a new permissive footpath link to be provided through the site. Whilst this would offer an accessibility improvement for Fieldhead Gardens residents, it must be noted that an alternative route to the station's car park is already available via Station Road. I thus apportion limited weight to this intended benefit.
37. Having considered the benefits and adverse impacts of the scheme before me, based on a 3.71-year housing supply figure, the harm and policy conflict that I have identified would significantly and demonstrably outweigh the proposal's benefits when assessed against the Framework's policies taken as a whole. The presumption in favour of sustainable development, as set out in the Framework, would therefore not apply.
38. As such, it is not necessary for me to further explore the relevance of a housing requirement derived from local housing need rather than the Local Plan. Nor is

it necessary for me to consider in detail the various challenges that have been made to the Council's housing trajectory. Even were I to ultimately agree with the appellant that a 5-year supply of housing sites cannot be demonstrated and that the current extent of supply is 3.71 years, this would not alter the outcome of this appeal.

39. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

40. For the reasons set out above, the appeal is dismissed.

Andrew Smith

INSPECTOR